

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SHELLY JONES; WARREN JONES

Plaintiffs,

-against-

WESTSIDE BUILDING AND
RESTORATION, INC.,

Defendant.

25-CV-3339 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiffs Shelly and Warren Jones, who are proceeding *pro se*, have filed both a petition and a letter requesting preliminary injunctive relief. To obtain such relief, Plaintiffs must show: (1) that they are likely to suffer irreparable harm and (2) either (a) a likelihood of success on the merits of their case or (b) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly in their favor. *See UBS Fin. Servs., Inc. v. W.V. Univ. Hosps., Inc.*, 660 F.3d 643, 648 (2d Cir. 2011) (citation and internal quotation marks omitted); *Wright v. Giuliani*, 230 F.3d 543, 547 (2d Cir. 2000). Preliminary injunctive relief “is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.” *Moore v. Consol. Edison Co. of N.Y., Inc.*, 409 F.3d 506, 510 (2d Cir. 2005) (internal quotation marks and citation omitted).

Plaintiffs seek an order from this Court staying their eviction, scheduled for June 3, 2025. Defendant Westside Building and Restoration, Inc., a private company, initiated the eviction proceedings in the Poughkeepsie City Court. (*See* ECF 10-1, at 2-3) (issuance of a warrant of eviction, dated Apr. 2, 2025). Plaintiffs claim the “eviction is based on an illegal foreclosure conducted in violation of due process, infringing upon our inalienable rights under the Fourth, Fifth, Seventh, and Fourteenth Amendments of the United States Constitution.” (ECF 10, at 1.)

Plaintiffs' submissions do not demonstrate: (1) a likelihood of success on the merits, or (2) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly in their favor because they bring constitutional claims against a private entity. *See generally West v. Atkins*, 487 U.S. 42, 48-49 (1988) (holding that constitutional claims brought under 42 U.S.C. § 1983 must be brought against a person acting under the color of state law).¹ Accordingly, Plaintiffs' requests for preliminary injunctive relief (ECF Nos. 3, 10) are denied. The Court will issue an explanatory order at a later date.

CONCLUSION

Plaintiffs' requests for an order to show cause (ECF No. 3, 10) are denied.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

SO ORDERED.

Dated: May 23, 2025
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge

¹ The Court refers Plaintiffs to the *pro se* law clinic for legal assistance in addressing what they believe is an illegal foreclosure. Attached to this order is a flyer from the City Bar Justice Center, which operates the clinic at the courthouse.

FEDERAL PRO SE LEGAL ASSISTANCE PROJECT

in the Southern District of New York (SDNY)

**ABOUT THE PROJECT**

The Federal Pro Se Legal Assistance Project (Fed Pro) provides limited assistance to self-represented litigants (plaintiffs and defendants) with cases involving civil legal matters in the United States District Court for the Southern District of New York (SDNY).

HOW TO SCHEDULE AN APPOINTMENT

To schedule an appointment for assistance with City Bar Justice Center's Fed Pro project, you must first complete our online Intake Form.

- Our online Intake Form is accessible via one of these methods:
 - Scan the QR code to the right.
 - Go to bit.ly/prosesdny
- Once on the City Bar Justice Center Federal Pro Se Legal Assistance page, scroll down to "**SDNY**" and then click "**APPLY FOR HELP**" to be taken to the Intake Form.
- When the Intake Form asks: "How can we help you", please select "**Federal Court Case**" from the drop-down menu. The Fed Pro SDNY office will receive your application ONLY if you select "federal court case." If you select anything else, you will need to re-complete your application.



Once you complete the form, someone will contact you, usually within five business days, to schedule an appointment. If you are not able to complete the Intake Form, please call **(212) 382-4794**, leave a detailed message, and wait for us to call you back, typically within five business days.

HOW WE HELP

While we cannot provide full representation, we can assist litigants by providing limited-scope services such as:



Counseling about potential federal claims prior to filing suit



Consulting on **discovery** matters



Interpreting and explaining federal law and procedure



Assisting with the **settlement** process (including **mediation**)



Reviewing drafted pleadings and correspondence with the Court